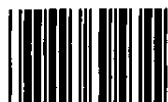


USDC SCAN INDEX SHEET



LLS 7/23/98 10:27

3:98-CV-01346 ZUBKIS V. SUMMIT FAMILY

\*1\*

\*CMP.\*

1 Vladislav Steven Zubkis  
2 4364 Bonita Road, Suite 476  
3 Bonita, California 91902  
4 (619) 475-2522  
5 Unrepresented

FILED  
98 JUL 22 PM 3:18  
CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
BY: J. Sch DEPUTY

8 COURT OF THE UNITED STATES

9 Vladislav Steven Zubkis

10 Plaintiff, in law

11 vs.

12 SUMMIT FAMILY RESTAURANTS, INC., )  
13 CKE RESTAURANTS, INC, )  
14 PIPER JAFFRAY COMPANIES, INC. )  
15 Norman N. Habermann, )  
16 Four unknown Special Committee members )  
17 William P. Foley II, )

18 Defendants.

Case No.

CIVIL ACTION

VERIFIED COMPLAINT FOR  
DAMAGES.

Jury trial demanded

18 1. I, Vladislav Steven Zubkis, having first hand knowledge of the facts herein, affirm  
19 under penalty of perjury that the following is true and correct to the best of my knowledge:

20 JURISDICTION

21 2. This controversy falls under the authority of Article III § 2 ¶ 1 of the Constitution of  
22 the United States of America, between a citizen and citizen of another State; Title 28 U.S.C.  
23 section 1332.

24 PARTIES

25 3. Vladislav Steven Zubkis, ("Zubkis"), the movant in this controversy, lives in the city  
26 of Bonita, California in San Diego County. Zubkis is the Senior Financial Advisor of Stella  
27 Bella Corp USA (SBAM) and a major stockholder in the same.

28 //

ORIGINAL

1 4. SUMMIT FAMILY RESTAURANTS, INC., (hereinafter "SUMMIT"), is a  
2 corporation chartered in the State of Delaware, and was formerly known as JB'S  
3 RESTAURANTS INC.

4 5. CKE RESTAURANTS, INC., is a corporation chartered in the State of Delaware. On  
5 information and belief SUMMIT is owned by CKE RESTAURANTS, INC. but they are not  
6 merged.

7 6. PIPER JAFFRAY COMPANIES, INC., ("PIPER JAFFRAY"), at all times relevant to  
8 this complaint, was a corporation created under the laws of the State of Minnesota. Upon  
9 information and belief, PIPER JAFFRAY was hired by SUMMIT to negotiate the sale of  
10 SUMMIT.

11 7. Norman N. Habermann ("Habermann") is a member of the Board of Directors of  
12 SUMMIT.

13 8. The names of the four unknown Special Committee members are unknown to Plaintiff  
14 at this time. Zubkis will amend this complaint to include their names as they become known to  
15 him. Zubkis believes that the four unknown Special Committee members were in some manner  
16 responsible for the damages alleged herein.

17 9. On information and belief, Habermann and the four unknown Special Committee  
18 members were members of a committee appointed by SUMMIT'S Board of Directors to  
19 evaluate proposals for business combinations involving the transfer of substantial assets of  
20 SUMMIT. At all times relevant to the facts in this case Habermann was Chairman of the  
21 Special Committee.

22 10. William P. Foley II, at all times relevant to this complaint, on information and belief,  
23 was Chairman of the Board and Chief Executive Officer of CKE RESTAURANTS, INC.

#### 24 **FACTS**

25 11. On or about September 26, 1995 Zubkis became aware of the proposed offering for  
26 sale of SUMMIT.

27 12. Zubkis immediately commenced investigation into the acquisition of SUMMIT and  
28 requested a full sales package from PIPER JAFFRAY and an invitation to bid.

1 13. Between September, 1995 and July, 1996 Zubkis, representing SBAM, continued  
2 negotiations with PIPER JAFFRAY regarding SBAM's intent to purchase SUMMIT.

3 14. Throughout negotiations, with the assistance of Jack Broberg, who for 27 years was  
4 the founder and Chairman of the Board of JB's Restaurants (SUMMIT), Zubkis acted in good  
5 faith to negotiate the purchase of SUMMIT by SBAM.

6 15. On information and belief, members of SUMMIT'S Board of Directors and members  
7 of the Special Committee were aware that Zubkis intended to tender a bid for the purchase of  
8 SUMMIT.

9 16. On information and belief, SUMMIT shareholders were never presented or allowed  
10 to vote on SBAM's purchase bid which was planned to be up to fifty million dollars  
11 (\$50,000,000), of which forty million (\$40,000,000) was cash.

12 17. On or about July 25, 1996 PIPER JAFFRAY sold SUMMIT for approximately  
13 \$32,000,000.

14 18. Neither Zubkis nor SBAM was ever given an opportunity to bid.

#### 15 NOTICE OF LEGAL CLAIMS

16 "By analogy to interference with existing contractual relations, tort  
17 liability has been imposed for intentional interference with prospective economic  
18 advantage.

19 The chief difference lies in the recognition of more extensive privileges  
20 on the part of defendants seeking to protect or advance their interests, where the  
21 contract or advantage interfered with is merely prospective. Chief among these  
22 are:

a. The privilege of bona fide competition for the prospective advantage.  
The privilege is limited to methods which are regarded as 'fair,' and unfair com-  
petition which oversteps the boundaries of business ethics recognized by the law  
usually has been held to lead to tort liability. Interference by means of  
combinations seeking a monopolistic restraint of trade is also actionable..."  
Prosser on Torts, p. 745.

#### 23 CAUSES OF ACTION

24 19. **First cause of action:** Interference with prospective advantage. Plaintiff alleges that  
25 Habermann, members of the Special Committee and PIPER JAFFRAY tortiously induced  
26 SUMMIT to breach its obligation to allow SBAM to be invited to the task desk. This  
27 interference created loss to SBAM and indirectly damaged Zubkis as a major stockholder and  
28 senior financial advisor of SBAM.

1       20. **Second cause of action: Fraud.** Plaintiff alleges that Habermann, members of the  
2 Special Committee and PIPER JAFFRAY led Zubkis to believe that he would be invited to the  
3 task desk; however, they never intended to allow Zubkis to bid for purchase of SUMMIT.

4       21. **Third cause of action: Conspiracy.** Plaintiff alleges that two or more defendants  
5 acted in concert with a single design for the accomplishment of a common purpose, which was  
6 to prevent Zubkis and SBAM from purchasing SUMMIT. This resulted in a loss of the potential  
7 economic advantage which was to be derived from the purchase of SUMMIT.

8       22. **Fourth cause of action: Loss of reputation.** As a result of all defendants' actions  
9 Zubkis has lost the confidence of the directors of SBAM, of which he is the chief financial  
10 advisor.

11                                   **RELIEF REQUESTED**

12       23. **WHEREFORE,** Plaintiff requests the following relief from defendants, jointly and  
13 severally:

14       24. Two million dollars (\$2,000,000) compensatory damages, for loss of reputation and  
15 diminution of salary;

16       25. Ten million dollars (\$10,000,000) punitive damages;

17       26. One Hundred Fifty million dollars (\$150,000,000) prospective damages, for loss of  
18 prospective income;

19       27. Costs of this suit, and;

20       28. Such other and further relief as justice requires.

21       Dated: July 21, 1998

22  
23                                   Vladislav Steven Zubkis  
24  
25  
26  
27  
28

JS-44 (Rev. 07/89)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

I (a) PLAINTIFFS

Vladislav Steven Zubkis

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF (EXCEPT IN U.S. PLAINTIFF CASES) San Diego

DEFENDANTS

SUMMIT FAMILY RESTAURANTS, INC., CKE RESTAURANTS, INC., PIPER JAFFRAY COMPANIES Inc., Norman N. Habermann, William P. Foley, FOUR OTHER COMMITTEE MEMBERS.  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Vladislav Steven Zubkis  
4364 Bonia Road, Suite 476  
Bonita, California 91902

ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

- ☐ I U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)  
☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- Citizen of This State ☒ 1 ☐ 1 Incorporated or Principal Place of Business in This State ☐ 4 ☐ 4  
Citizen of Another State ☐ 2 ☒ 2 Incorporated and Principal Place of Business in Another State ☐ 5 ☒ 5  
Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

Constitution of the United States of America; 28 USC Sec 1332 *fr 23*

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<b>PERSONAL INJURY</b>	<b>PERSONAL INJURY</b>	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reappointment
<input type="checkbox"/> Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury-Medical Malpractice	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<b>PROPERTY RIGHTS</b>	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 450 Commerce/ICC Rates/etc
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input checked="" type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 640 RR & Truck	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 650 Airline Regs	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 660 Occupational Safety/Health	<b>SOCIAL SECURITY</b>	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 153 Recovery of Overpayment of Veterans Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 861 HIA (13958)	<input type="checkbox"/> 850 Securities/Commodities Exchange
<input type="checkbox"/> 160 Stockholders Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability		<b>LABOR</b>	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 875 Customer Challenge 12 USC
<input type="checkbox"/> Other Contract	<input type="checkbox"/> 360 Other Personal Injury		<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 892 Economic Stabilization Act
<b>REAL PROPERTY</b>	<b>CIVIL RIGHTS</b>	<b>PRISONER PETITIONS</b>	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<b>FEDERAL TAX SUITS</b>	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 530 General	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 240 Tort to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 540 Mandamus & Other			<input type="checkbox"/> 950 Constitutionality of State
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 550 Civil Rights			<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 290 All Other Real Property		<input type="checkbox"/> 555 Prisoner Conditions			

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

- ☒ 1 Original Proceeding ☐ 2 Removal from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ 162,000,000

Check YES only if demanded in complaint.

JURY DEMAND: ☒ YES ☐ NO

VIII. RELATED CASE(S) IF ANY (See Instructions): JUDGE

Docket Number

DATE

July 22, 1998

SIGNATURE OF ATTORNEY OF RECORD

#040547

*[Signature]*

Authority For Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I.(a) Plaintiffs - Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved).

(c) Attorneys. Enter firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place the "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction is based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an X in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS-44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause.

V. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section IV above, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

VI. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate's decision.

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS-44 is used to reference relating pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.  
(rev. 07/89)